

AMENDED IN SENATE JUNE 2, 2011

CALIFORNIA LEGISLATURE—2011–12 FIRST EXTRAORDINARY SESSION

**SENATE BILL**

**No. 23**

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**Introduced by Committee on Budget and Fiscal Review**

May 18, 2011

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~~An act relating to the Budget Act of 2010. An act to amend Sections 17041.5, 30111, and 32010 of, to add Section 17041.6 to, and to add Chapter 3.53 (commencing with Section 7289), Chapter 3.54 (commencing with Section 7289.10), Chapter 3.55 (commencing with Section 7289.20), Chapter 3.56 (commencing with Section 7289.31), Chapter 3.57 (commencing with Section 7289.40), and Chapter 3.58 (commencing with Section 7289.50), to Part 1.7 of Division 2 of, the Revenue and Taxation Code, relating to local taxation, and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 23, as amended, Committee on Budget and Fiscal Review. ~~Budget Act of 2010.~~ *Local taxation: counties: school districts: community college districts: county offices of education: general authorization.*

*The California Constitution prohibits the Legislature from imposing taxes for local purposes, but allows the Legislature to authorize local governments to impose them.*

*This bill would authorize the governing board of any county or city and county, any school district, any community college district, and any county office of education, subject to specified constitutional and voter approval requirements, to levy, increase, or extend a local personal income tax, transactions and use tax, vehicle license fee, and excise tax, including, but not limited to, an alcoholic beverages tax, a*

*cigarette and tobacco products tax, a sweetened beverage tax, and an oil severance tax, as provided.*

*This bill would require the State Board of Equalization, the Franchise Tax Board, or the Department of Motor Vehicles to perform various functions incident to the administration and operation of a local tax if the county or city and county, the school district, the community college district, or the county office of education contracts with the state agency to perform those functions.*

*This bill would, for each fiscal year, also require a county or city and county, a school district, a community college district, and a county office of education to reimburse the state for any losses incurred by the state General Fund due to any deductions allowed under the Personal Income Tax Law and the Corporation Tax Law for any local taxes levied, increased, or extended pursuant to this authorization by that county or city and county, school district, community college district, or county office of education, as specified. This bill would, for each fiscal year, require the Franchise Tax Board, with the assistance of the State Board of Equalization, to estimate the losses incurred by the state General Fund attributable to each county or city and county, a school district, a community college district, or a county office of education due to any local taxes levied, increased, or extended by that county or city and county, school district, community college district, or county office of education.*

*The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. Governor Schwarzenegger issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on December 6, 2010. Governor Brown issued a proclamation on January 20, 2011, declaring and reaffirming that a fiscal emergency exists and stating that his proclamation supersedes the earlier proclamation for purposes of that constitutional provision.*

*This bill would state that it addresses the fiscal emergency declared and reaffirmed by the Governor by proclamation issued on January 20, 2011, pursuant to the California Constitution.*

*This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2010.*

*The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. The Governor issued a proclamation declaring a fiscal*

emergency, and calling a special session for this purpose, on December 6, 2010.

~~This bill would state that it addresses the fiscal emergency declared by the Governor by proclamation issued on December 6, 2010, pursuant to the California Constitution.~~

Vote: majority. Appropriation: ~~no~~ yes. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     *SECTION 1. The Legislature finds and declares all of the*
- 2     *following:*
- 3     *(a) The recent economic recession and slow recovery has led*
- 4     *to an erosion of tax revenues and sharp reductions in public*
- 5     *services at all levels of government in California.*
- 6     *(b) Counties are geographical and political subdivisions of the*
- 7     *state and administer state and federal laws governing public safety,*
- 8     *public health, child welfare services, and other programs. County*
- 9     *governments have experienced declines in general purpose*
- 10    *revenues and need additional funding stability to adequately*
- 11    *protect the public health and safety.*
- 12    *(c) Our schools and community colleges have lost billions of*
- 13    *dollars in state funding in recent years. Budget reductions have*
- 14    *resulted in larger class sizes and the elimination of extracurricular*
- 15    *activities in many schools and community colleges throughout*
- 16    *California.*
- 17    *(d) California is lagging in per pupil expenditures and simply*
- 18    *is not making the investment in public education needed to ensure*
- 19    *that our children are prepared to compete globally in the 21st*
- 20    *century economy.*
- 21    *(e) Public education and public safety are of vital concern to*
- 22    *all Californians.*
- 23    *(f) Businesses throughout California would benefit if counties*
- 24    *were able to stabilize funding for vital public services and schools*
- 25    *and community colleges were able to have access to the resources*
- 26    *they need to prepare the workforce of tomorrow.*
- 27    *(g) The Legislature controls the delegation of taxing authority*
- 28    *to counties, school districts, community college districts, and*
- 29    *county offices of education. These entities have limited taxing*
- 30    *authority under current law.*

(h) Local taxing authority is subject to the provisions of Article XIII C of the California Constitution, which requires local tax measures that impose, extend, or increase taxes for special purposes to be approved by a two-thirds vote of the electorate; and requires local tax measures that impose, extend, or increase taxes for general purposes to be approved by a majority vote of the electorate.

(i) Section 1 of Article II of the California Constitution provides that “[a]ll political power is inherent in the people.”

(j) Voters want the option of deciding whether taxes should be a part of the solution to budget shortfalls in their communities. The voters should have a voice in determining the services they want and are willing to pay for.

(k) That it is the intent of the Legislature to do both of the following:

(1) To fund the administrative costs incurred by any state agency resulting from the exercise of local taxing authority pursuant to this act with a separate appropriation in a budget act or with a deficiency appropriation.

(2) That local entities authorizing local tax measures under the authorization provided by this act ultimately reimburse state agencies for their administrative costs.

SEC. 2. Chapter 3.53 (commencing with Section 7289) is added to Part 1.7 of Division 2 of the Revenue and Taxation Code, to read:

#### CHAPTER 3.53. GENERAL LOCAL TAX AUTHORIZATION

7289. Notwithstanding any other law, but subject to the limitations of the California Constitution, the governing board of any county or city and county, any school district, any community college district, and any county office of education may, in accordance with Article 3.7 (commencing with Section 53720) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code, levy, increase, or extend any of the following taxes:

(a) A local personal income tax that is assessed and collected by the Franchise Tax Board in accordance with Section 17041.6.

(b) A transactions and use tax, adopted in accordance with the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251)), notwithstanding any rate limitations specified in that law.

1 (c) A local vehicle license fee that is assessed and collected in  
2 accordance with Chapter 3.54 (commencing with Section 7289.10).

3 (d) (1) An excise tax, including, but not limited to, a local  
4 alcoholic beverage tax, a local cigarette and tobacco products  
5 tax, a local sweetened beverage tax, and a local medical marijuana  
6 tax.

7 (A) A local alcoholic beverage tax shall be assessed and  
8 collected in accordance with Chapter 3.55 (commencing with  
9 Section 7289.20).

10 (B) A local cigarette and tobacco products tax shall be assessed  
11 and collected in accordance with Chapter 3.56 (commencing with  
12 Section 7289.31).

13 (C) A local sweetened beverage tax shall be assessed and  
14 collected in accordance with Chapter 3.58 (commencing with  
15 Section 7289.50).

16 (2) Notwithstanding paragraph (1), an excise tax shall not  
17 include a motor vehicle fuel tax, diesel fuel tax, or use fuel tax.

18 (3) A county or city and county, a school district, a community  
19 college district, or a county office of education may contract with  
20 the State Board of Equalization to administer an excise tax. The  
21 contract shall contain a provision that the county or city and  
22 county, a school district, a community college district, or a county  
23 office of education shall reimburse the board for all refunds, losses,  
24 and costs incurred in the administration of the tax.

25 (e) A local tax on extractive business activities, as defined in  
26 paragraph (3) of subdivision (d) of Section 25128, not to exceed  
27 2 percent of the wholesale value per unit measure.

28 (f) A local oil severance tax that is assessed and collected in  
29 accordance with Chapter 3.57 (commencing with Section 7289.40).

30 7289.1. (a) For each fiscal year, a county or city and county,  
31 a school district, a community college district, and a county office  
32 of education shall reimburse the state for any losses incurred by  
33 the state General Fund due to any deductions allowed for that  
34 fiscal year under the Personal Income Tax Law (Part 10  
35 (commencing with Section 17001)) and the Corporation Tax Law  
36 (Part 11 (commencing with Section 23001)) for any local taxes  
37 levied, increased, or extended pursuant to this chapter by that  
38 county or city and county, school district, community college  
39 district, or county office of education, in accordance with the  
40 estimate prescribed by subdivision (b).

(b) For each fiscal year, the Franchise Tax Board, with assistance from the State Board of Equalization, shall estimate the losses incurred by the state General Fund attributable to each county or city and county, a school district, a community college district, or a county office of education due to any local taxes levied, increased, or extended pursuant to this chapter by that county or city and county, school district, community college district, or county office of education.

SEC. 3. Chapter 3.54 (commencing with Section 7289.10) is added to Part 1.7 of Division 2 of the Revenue and Taxation Code, to read:

CHAPTER 3.54. LOCAL VEHICLE LICENSE FEE

7289.10. (a) Subject to the requirements of this chapter, the governing board of a county or city and county, a school district, a community college district, and a county office of education may impose a vehicle license fee for the privilege of operating a vehicle upon the public highways to the state in the county or city and county, the school district, the community college district, or the jurisdiction of the county office of education, as authorized pursuant to Chapter 3.53 (commencing with Section 7289). The board of supervisors may impose this fee within an incorporated city within the county or city and county. An ordinance or resolution imposing a local vehicle license fee, as authorized pursuant to Chapter 3.53 (commencing with Section 7289), shall not exceed 1.35 percent.

(b) (1) The Department of Motor Vehicles shall administer the local vehicle license fee.

(2) Prior to the operative date of any ordinance or any resolution imposing a local vehicle license fee, the county or city and county, a school district, a community college district, or a county office of education shall contract with the Department of Motor Vehicles to perform all functions incident to the administration of the local vehicle license fee.

(3) The contract shall require the county or city and county, a school district, a community college district, or a county office of education to reimburse the Department of Motor Vehicles for all refunds, losses, and costs incurred in the administration and operation of the local vehicle license fee.

(4) *The local vehicle license fee shall be assessed and collected in the same manner as the fee imposed by Part 5 (commencing with Section 10701).*

(5) (A) *Amounts collected pursuant to this chapter shall be transmitted to the Treasurer and deposited in the State Treasury to the credit of the Local Vehicle License Fee Account in the General Fund, which is hereby created.*

(B) *Notwithstanding Section 13340 of the Government Code, the moneys in the Local Vehicle License Fee Account are hereby continuously appropriated, without regard to fiscal year, to the Controller for allocation to each county and city and county, school district, community college district, and jurisdiction of each county office of education in which the local vehicle license fee is imposed.*

(c) *The Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) shall not apply to any standard, criterion, procedure, determination, rule, notice, or guideline established or issued by the Department of Motor Vehicles in the administration of this chapter.*

SEC. 4. *Chapter 3.55 (commencing with Section 7289.20) is added to Part 1.7 of Division 2 of the Revenue and Taxation Code, to read:*

*CHAPTER 3.55. LOCAL ALCOHOLIC BEVERAGE TAX*

7289.20. (a) *Subject to the requirements of this chapter, the governing board of a county or city and county, a school district, a community college district, and a county office of education may impose a tax on the privilege of selling beer, wine, or distilled spirits at retail in the county or city and county, the school district, the community college district, or the jurisdiction of the county office of education, as authorized pursuant to Chapter 3.53 (commencing with Section 7289). The board of supervisors may impose this tax within an incorporated city within the county or city and county.*

(b) *Any tax imposed shall not exceed the following:*

(1) *On beer, five cents (\$0.05) per 12 ounces and at a proportionate rate for any other quantity.*

(2) *On wine, five cents (\$0.05) per 5 ounces and at a proportionate rate for any other quantity.*

1     (3) *On distilled spirits, five cents (\$0.05) per 1.5 ounces and at*  
2 *a proportionate rate for any other quantity.*

3     (c) *Any tax imposed shall not be regulatory within the meaning*  
4 *of Section 22 of Article XX.*

5     7289.21. *For purposes of this chapter, “beer,” “wine,” and*  
6 *“distilled spirits” have the same meanings as provided in Sections*  
7 *23006, 23007, and 23005 of the Business and Professions Code.*

8     7289.22. (a) *The imposition of a tax pursuant to this chapter*  
9 *shall not prohibit the concurrent application of a tax imposed*  
10 *pursuant to the Sales and Use Tax Law (Part 1 (commencing with*  
11 *Section 6001)), the Bradley-Burns Uniform Sales and Use Tax*  
12 *Law (Part 1.5 (commencing with Section 7200)), or a tax imposed*  
13 *in accordance with the Transactions and Use Tax Law (Part 1.6*  
14 *(commencing with Section 7251)), on the sale of or the, storage,*  
15 *use, or other consumption of, beer, wine or distilled spirits.*

16     (b) *Notwithstanding Section 7203.5 or any other law, the*  
17 *imposition of a tax pursuant to this chapter by a county or city*  
18 *and county, a school district, a community college district, or a*  
19 *county office of education shall not prohibit the concurrent*  
20 *administration by the State Board of Equalization of a sales or*  
21 *use tax ordinance adopted by that county or city and county*  
22 *pursuant to the Bradley-Burns Uniform Local Sales and Use Tax*  
23 *Law (Part 1.5 (commencing with Section 7200)) or in accordance*  
24 *with the Transactions and Use Tax Law (Part 1.6 (commencing*  
25 *with Section 7251)).*

26     7289.23. *Any ordinance or resolution levying a tax pursuant*  
27 *to this chapter shall provide that the tax shall conform to Part 1.6*  
28 *(commencing with Section 7251). However, a tax imposed pursuant*  
29 *to this chapter is not a sales or use tax or a transactions or use*  
30 *tax, and shall not be considered as such for purposes of Section*  
31 *7251.1.*

32     7289.24. *An ordinance or resolution adopted pursuant to this*  
33 *chapter shall be operative on the first day of a calendar quarter*  
34 *commencing more than 90 days after the adoption of the ordinance*  
35 *or resolution.*

36     7289.26. *Prior to the operative date of any ordinance or*  
37 *resolution imposing a tax pursuant to this chapter, the governing*  
38 *board of the county or city and county, the school district, the*  
39 *community college district, or the county office of education shall*  
40 *do either of the following:*



1     (a) Notify the State Board of Equalization in writing that the  
2     county or city and county, the school district, the community  
3     college district, or the county office of education will be responsible  
4     for administering the tax imposed pursuant to an ordinance or  
5     resolution authorized by this chapter on its own behalf, and that  
6     the ordinance or resolution does not impose any duties or  
7     responsibilities for administering the tax upon the board.

8     (b) Contract with the State Board of Equalization to perform  
9     all functions incident to the administration and operation of the  
10    ordinance or resolution. If the county or city and county, the school  
11    district, the community college district, or the county office of  
12    education has not contracted with the board prior to the operative  
13    date of the ordinance or resolution, the operative date shall be  
14    delayed until the first day of the first calendar quarter following  
15    the execution of the contract.

16    7289.27. For a county or city and county, a school district, a  
17    community college district, or a county office of education that  
18    elects to contract with the State Board of Equalization to administer  
19    a tax imposed by the county or city and county, the school district,  
20    the community college district, or the county office of education,  
21    as authorized by this chapter, the following shall apply:

22    (a) The contract shall require the county or city and county, the  
23    school district, the community college district, or the county office  
24    of education to do both of the following:

25    (1) Reimburse the State Board of Equalization for, and hold the  
26    board harmless from, any and all costs, losses, or refunds.

27    (2) In the event that a legal action is commenced challenging  
28    the validity of the tax in its entirety, as opposed to the application  
29    of the tax to an individual taxpayer, place the tax proceeds into  
30    an interest-bearing escrow account until the legality of the tax is  
31    resolved by a final and nonappealable decision rendered by a  
32    court of competent jurisdiction. This paragraph shall be  
33    enforceable by any interested party in a proceeding for a writ of  
34    mandate.

35    (b) The county or city and county, the school district, the  
36    community college district, or the county office of education shall  
37    reimburse the State Board of Equalization for any costs the board  
38    incurs in preparing to administer and operate the tax. The county  
39    or city and county, the school district, the community college  
40    district, or the county office of education shall reimburse the board

1 as the costs are incurred and billed by the board, on a monthly  
2 basis. These reimbursable costs shall include costs incurred for  
3 the following:

- 4 (1) Developing procedures.
- 5 (2) Programming for data processing.
- 6 (3) Developing and adopting appropriate regulations.
- 7 (4) Designing and printing forms.
- 8 (5) Developing instructions for the State Board of Equalization  
9 staff and for taxpayers.

10 (6) Any other necessary preparatory costs, including the State  
11 Board of Equalization's direct and indirect costs as specified by  
12 Section 11256 of the Government Code.

13 (c) Any dispute as to the amount of preparatory costs incurred  
14 by the State Board of Equalization shall be resolved by the Director  
15 of Finance, whose decision shall be final. The maximum amount  
16 of all preparatory costs to be paid by the county or city and county,  
17 the school district, the community college district, or the county  
18 office of education to the board shall not exceed one hundred  
19 seventy-five thousand dollars (\$175,000).

20 (d) In addition to the amounts paid to the State Board of  
21 Equalization for the preparatory costs described in subdivision  
22 (b), the county or city and county, the school district, the  
23 community college district, or the county office of education shall  
24 reimburse the board for the cost of the board's services in  
25 administering the tax. The amount of this cost shall be determined  
26 by the board with the concurrence of the Department of Finance.

27 (e) All revenues collected from taxes imposed pursuant to the  
28 authorization of this chapter in counties or a city and county,  
29 school districts, community college districts, or county offices of  
30 education that have contracted with the State Board of Equalization  
31 to administer the tax shall be remitted to the board and allocated  
32 by the board as follows:

33 (1) First, for reimbursement to the State Board of Equalization  
34 for the reasonable costs, as specified in subdivisions (b) and (d),  
35 of administering and enforcing the tax ordinance on behalf of the  
36 county or city and county, the school district, the community  
37 college district, or the county office of education pursuant to the  
38 contract between the board and the county or city and county, the  
39 school district, the community college district, or the county office  
40 of education.

(2) *Second, for transmission to each county or city and county, school district, community college district, or county office of education that has contracted with the State Board of Equalization pursuant to subdivision (b) of Section 7289.26, in proportion to the amount of revenues derived from each county's or city and county's, school district's, community college district's, or county office of education's respective tax.*

(f) *The State Board of Equalization shall transmit to a county or city and county, a school district, a community college district, or a county office of education all revenues derived from the taxes imposed pursuant to this chapter and collected by the board pursuant to a contract with the county or city and county, the school district, the community college district, or the county office of education periodically as promptly as feasible. The transmittals shall be made at least twice in each calendar quarter.*

7289.28. *Except as provided in Section 7289.29, to the extent practicable, Chapter 5 (commencing with Section 6451), Chapter 6 (commencing with Section 6701), Chapter 7 (commencing with Section 6901), and Chapter 8 (commencing with Section 7051) of Part 1, shall govern determinations, collection of tax, overpayments, and refunds, and administration of all taxes imposed under the authorization of this chapter.*

7289.29. *The return and payment of any tax imposed pursuant to the authorization of this chapter shall be due and payable to the State Board of Equalization on the same date as the return and payment of the tax imposed pursuant to Part 1 (commencing with Section 6001), provided that the retailer is within the jurisdiction of a county or city and county, a school district, a community college district, or a county office of education that elects to contract with the board to administer the tax, pursuant to subdivision (b) of Section 7289.26. If the retailer is within the jurisdiction of a county or city and county, a school district, a community college district, or a county office of education that has elected not to contract with the board to administer the tax, the return and payment of the tax imposed pursuant to the authorization of this chapter is due and payable from the retailer as prescribed in the ordinance or resolution adopted by the county or city and county, the school district, the community college district, or the county office of education.*

1 7289.30. *The Administrative Procedure Act (Chapter 3.5*  
2 *(commencing with Section 11340) of Part 1 of Division 3 of Title*  
3 *2 of the Government Code) shall not apply to any standard,*  
4 *criterion, procedure, determination, rule, notice, or guideline*  
5 *established or issued by the State Board of Equalization in the*  
6 *administration of this chapter.*

7 SEC. 5. *Chapter 3.56 (commencing with Section 7289.31) is*  
8 *added to Part 1.7 of Division 2 of the Revenue and Taxation Code,*  
9 *to read:*

10  
11 *CHAPTER 3.56. LOCAL CIGARETTE AND TOBACCO PRODUCT*  
12 *TAX*  
13

14 7289.31. (a) *Subject to the requirements of this chapter, the*  
15 *governing board of a county or city and county, a school district,*  
16 *a community college district, and a county office of education may*  
17 *impose a tax on the privilege of distributing cigarettes and tobacco*  
18 *products in the county or city and county, the school district, the*  
19 *community college district, or the jurisdiction of the county office*  
20 *of education, as authorized pursuant to Chapter 3.53 (commencing*  
21 *with Section 7289). The board of supervisors may impose this tax*  
22 *within an incorporated city within the county or city and county.*

23 (b) *Any tax imposed shall not exceed the following:*

24 (1) *On cigarettes, five cents (\$0.05) per cigarette.*

25 (2) *On tobacco products, based on the wholesale cost of these*  
26 *products, at a tax rate, as determined annually by the State Board*  
27 *of Equalization, which is equivalent to five cents (\$0.05) per*  
28 *cigarette.*

29 (3) *Any tax imposed shall be assessed and collected in the same*  
30 *manner as the taxes imposed by the Cigarette and Tobacco*  
31 *Products Tax Law (Part 13 (commencing with Section 30001)).*

32 7289.32. *An ordinance or resolution adopted pursuant to this*  
33 *chapter shall be operative on the first day of a calendar quarter*  
34 *commencing more than 110 days after the adoption of the*  
35 *ordinance or resolution.*

36 7289.33. *Prior to the operative date of any ordinance or*  
37 *resolution imposing a tax pursuant to this chapter, the governing*  
38 *board of the county or city and county, the school district, the*  
39 *community college district, or the county office of education shall*  
40 *do either of the following:*

(a) Notify the State Board of Equalization in writing that the county or city and county, the school district, the community college district, or the county office of education will be responsible for administering the tax imposed pursuant to an ordinance or resolution authorized by this chapter on its own behalf, and that the ordinance or resolution does not impose any duties or responsibilities for administering the tax upon the board.

(b) Contract with the State Board of Equalization to perform all functions incident to the administration and operation of the ordinance or resolution. If the county or city and county, the school district, the community college district, or the county office of education has not contracted with the board prior to the operative date of the ordinance or resolution, the operative date shall be delayed until the first day of the first calendar quarter following the execution of the contract.

7289.34. For a county or city and county, a school district, a community college district, or a county office of education that elects to contract with the State Board of Equalization to administer a tax imposed by the county or city and county, the school district, the community college district, or the county office of education, as authorized by this chapter, the following shall apply:

(a) The contract shall require the county or city and county, the school district, the community college district, or the county office of education to do both of the following:

(1) Reimburse the State Board of Equalization for, and hold the board harmless from, any and all costs, losses, or refunds.

(2) In the event that a legal action is commenced challenging the validity of the tax in its entirety, as opposed to the application of the tax to an individual taxpayer, place the tax proceeds into an interest-bearing escrow account until the legality of the tax is resolved by a final and nonappealable decision rendered by a court of competent jurisdiction. This paragraph shall be enforceable by any interested party in a proceeding for a writ of mandate.

(b) The county or city and county, the school district, the community college district, or the county office of education shall reimburse the State Board of Equalization for any costs the board incurs in preparing to administer and operate the tax. The county or city and county, the school district, the community college district, or the county office of education shall reimburse the board

1 as the costs are incurred and billed by the board, on a monthly  
2 basis. These reimbursable costs shall include costs incurred for  
3 the following:

- 4 (1) Developing procedures.
- 5 (2) Programming for data processing.
- 6 (3) Developing and adopting appropriate regulations.
- 7 (4) Designing and printing forms.
- 8 (5) Developing instructions for the State Board of Equalization  
9 staff and for taxpayers.

10 (6) Any other necessary preparatory costs, including the State  
11 Board of Equalization's direct and indirect costs as specified by  
12 Section 11256 of the Government Code.

13 (c) Any dispute as to the amount of preparatory costs incurred  
14 by the State Board of Equalization shall be resolved by the Director  
15 of Finance, whose decision shall be final. The maximum amount  
16 of all preparatory costs to be paid by the county or a city and  
17 county, the school district, the community college district, or the  
18 county office of education to the board shall not exceed one  
19 hundred seventy-five thousand dollars (\$175,000).

20 (d) In addition to the amounts paid to the State Board of  
21 Equalization for the preparatory costs described in subdivision  
22 (b), the county or a city and county, the school district, the  
23 community college district, or the county office of education shall  
24 reimburse the board for the cost of the board's services in  
25 administering the tax. The amount of this cost shall be determined  
26 by the board with the concurrence of the Department of Finance.

27 (e) All revenues collected from taxes imposed pursuant to the  
28 authorization of this chapter in counties or a city and county,  
29 school districts, community college districts, or county offices of  
30 education that have contracted with the State Board of Equalization  
31 to administer the tax shall be remitted to the board and allocated  
32 by the board as follows:

33 (1) First, for reimbursement to the State Board of Equalization  
34 for the reasonable costs, as specified in subdivisions (b) and (d),  
35 of administering and enforcing the tax ordinance on behalf of the  
36 county or city and county, the school district, the community  
37 college district, or the county office of education pursuant to the  
38 contract between the board and the county or city and county, the  
39 school district, the community college district, or the county office  
40 of education.

(2) *Second, for transmission to each county or city and county, school district, community college district, or county office of education that has contracted with the State Board of Equalization pursuant to subdivision (b) of Section 7289.33, in proportion to the amount of revenues derived from each county's or city and county's, school district's, community college district's, or county office of education's respective tax.*

(f) *The State Board of Equalization shall transmit to a county or city and county, a school district, a community college district, or a county office of education all revenues derived from the taxes imposed pursuant to this chapter and collected by the board pursuant to a contract with the county or city and county, the school district, the community college district, or the county office of education periodically as promptly as feasible. The transmittals shall be made at least twice in each calendar quarter.*

7289.35. *Except as provided in Section 7289.36, to the extent practicable, Chapter 4 (commencing with Section 30181), Chapter 5 (commencing with Section 30301), Chapter 6 (commencing with Section 30361), and Chapter 8 (commencing with Section 30451) of Part 13, shall govern determinations, collection of tax, overpayments, and refunds, and administration of all taxes imposed under the authorization of this chapter.*

7289.36. *The return and payment of any tax imposed pursuant to the authorization of this chapter is due and payable to the State Board of Equalization on the same date as the return and payment of the tax imposed pursuant to Part 13 (commencing with Section 30001), provided that the retailer is within the jurisdiction of a county or city and county, a school district, a community college district, or a county office of education that elects to contract with the board to administer the tax, pursuant to subdivision (b) of Section 7289.33. If the retailer is within the jurisdiction of a county or city and county, a school district, a community college district, or a county office of education that has elected not to contract with the board to administer the tax, the return and payment of the tax imposed pursuant to the authorization of this chapter is due and payable from the retailer as prescribed in the ordinance or resolution adopted by the county or city and county, the school district, the community college district, or the county office of education.*

1     7289.37. *The Administrative Procedure Act (Chapter 3.5*  
2 *(commencing with Section 11340) of Part 1 of Division 3 of Title*  
3 *2 of the Government Code) shall not apply to any standard,*  
4 *criterion, procedure, determination, rule, notice, or guideline*  
5 *established or issued by the State Board of Equalization in the*  
6 *administration of this chapter.*

7     SEC. 6. *Chapter 3.57 (commencing with Section 7289.40) is*  
8 *added to Part 1.7 of Division 2 of the Revenue and Taxation Code,*  
9 *to read:*

10  
11                   *CHAPTER 3.57. LOCAL OIL SEVERANCE TAX*  
12

13     7289.40. (a) *Subject to the requirements of this chapter, the*  
14 *governing board of a county or city and county, a school district,*  
15 *a community college district, and a county office of education may*  
16 *impose a tax upon a producer for the privilege of severing oil from*  
17 *the earth or water in the county or city and county, the school*  
18 *district, the community college district, or the jurisdiction of the*  
19 *county office of education for sale, transport, consumption, storage,*  
20 *profit, or use, as authorized pursuant to Chapter 3.53 (commencing*  
21 *with Section 7289). The board of supervisors may impose this tax*  
22 *within an incorporated city within the county or city and county.*

23     (b) *Any tax imposed shall not exceed 10 percent of the gross*  
24 *value of the product.*

25     (c) *Except as otherwise provided in this chapter, the tax shall*  
26 *be upon the entire production in the county or city and county, the*  
27 *school district, the community college district, or the jurisdiction*  
28 *of the county office of education, regardless of the place of sale*  
29 *or to whom sold or by whom used, or the fact that the delivery may*  
30 *be made to points outside the county or city and county, school*  
31 *district, community college district, or the jurisdiction of the county*  
32 *office of education.*

33     (d) *The tax shall be in addition to any ad valorem taxes imposed*  
34 *by the state, or any of its political subdivisions, or any local*  
35 *business license taxes that may be incurred for the privilege of*  
36 *severing oil from the earth or water or doing business in that*  
37 *locality. An exemption shall not be allowed from the payment of*  
38 *an ad valorem tax related to equipment, material, or property by*  
39 *reason of the payment of the gross severance tax.*



(e) Two or more producers that are corporations and are owned or controlled directly or indirectly, as defined in Section 25105, by the same interests shall be considered as a single producer for purposes of application of the tax.

(f) There shall be exempted from the imposition of the tax imposed pursuant to this part oil produced by a stripper well in which the average value of oil as of January 1 of the prior year is less than thirty dollars (\$30) per barrel price of California oil. The Division of Oil, Gas, and Geothermal Resources in the Department of Conservation shall provide notification of all wells that have been certified as a stripper well.

(g) For oil produced in this state from a well that qualifies under Section 3251 of the Public Resources Code or which has been inactive for a period of at least the preceding five consecutive years, the imposition of the tax imposed pursuant to this part shall be reduced to zero for a period of 10 years. The Division of Oil, Gas, and Geothermal Resources in the Department of Conservation shall determine which wells qualify under Section 3251 of the Public Resources Code or which have been inactive for a period of at least the preceding five consecutive years, and shall provide notification of its determinations.

(h) There shall be exempted from the imposition of a tax imposed all oil owned or produced by the state and any political subdivision's (including any local public entity, as defined by Section 900.4 of the Government Code) proprietary share of oil produced under any unit, cooperative, or other pooling agreement. 7289.41. For purposes of any tax imposed, all of the following definitions shall apply:

(a) "Barrel of oil" means 42 United States gallons of 231 cubic inches per gallon computed at a temperature of 60 degrees Fahrenheit.

(b) "Gross value" means the sale price at the mouth of the well, including any bonus, premium, or other thing of value paid for the oil. If there is no sale at the time of severance, "gross value" means the sale price when the oil is sold, including any bonus, premium, or other thing of value paid for the oil. If oil is exchanged for something other than cash, or if the relation between the buyer and the seller is such that the consideration paid, if any, is not indicative of the true value or market price, then the board shall determine the value of the oil subject to the tax based on the cash

1 *price paid to producers for like quality oil in the vicinity of the*  
2 *well.*

3 (c) “Oil” means petroleum, or other crude oil, condensate,  
4 casing head gasoline, or other mineral oil that is mined, produced,  
5 or withdrawn from below the surface of the soil or water in the  
6 county or city and county, the school district, the community  
7 college district, or the jurisdiction of the county office of education.

8 (d) “Producer” means any person or entity that takes oil from  
9 the earth or water in the county or city and county, the school  
10 district, the community college district, or the jurisdiction of the  
11 county office of education in any manner; any person that owns,  
12 controls, manages, or leases any oil well in the earth or water of  
13 the county or city and county, the school district, the community  
14 college district, or the jurisdiction of the county office of education;  
15 any person that produces or extracts in any manner any oil by  
16 taking it from the earth or water in the county or city and county,  
17 the school district, the community college district, or the  
18 jurisdiction of the county office of education; any person that  
19 acquires the severed oil from a person or agency exempt from  
20 property taxation under the United States Constitution or other  
21 laws of the United States or under the California Constitution or  
22 other laws of the State of California; and any person that owns  
23 an interest, including a royalty interest, in oil or its value, whether  
24 the oil is produced by the person owning the interest or by another  
25 on the person’s behalf by lease, contract, or other arrangement.

26 (e) “Production” means the total gross amount of oil produced,  
27 including the gross amount attributable to a royalty or other  
28 interest.

29 (f) “Severed” or “severing” means the extraction or  
30 withdrawing from below the surface of the earth or water of any  
31 oil, regardless of whether the extraction or withdrawal shall be  
32 by natural flow, mechanical flow, forced flow, pumping, or any  
33 other means employed to get the oil from below the surface of the  
34 earth or water, and shall include the extraction or withdrawal by  
35 any means whatsoever of oil upon which the tax has not been paid,  
36 from any surface reservoir, natural or artificial, or from a water  
37 surface.

38 (g) “Stripper well” means a well that has been certified by the  
39 Division of Oil, Gas, and Geothermal Resources in the Department  
40 of Conservation as an oil well incapable of producing an average

1 of more than 10 barrels of oil per day during the entire taxable  
2 month. Once a well has been certified as a stripper well, that  
3 stripper well shall remain certified as a stripper well until the well  
4 produces an average of more than 10 barrels of oil per day during  
5 an entire taxable month.

6 7289.42. Prior to the operative date of any ordinance or  
7 resolution imposing a tax pursuant to this chapter, the governing  
8 board of the county or city and county, the school district, the  
9 community college district, or the county office of education shall  
10 do either of the following:

11 (a) Notify the State Board of Equalization in writing that the  
12 county or city and county, the school district, the community  
13 college district, or the county office of education will be responsible  
14 for administering the tax imposed pursuant to an ordinance or a  
15 resolution authorized by this chapter on its own behalf, and that  
16 the ordinance or resolution does not impose any duties or  
17 responsibilities for administering the tax upon the board.

18 (b) Contract with the State Board of Equalization to perform  
19 all functions incident to the administration and operation of the  
20 ordinance or resolution. If the county or city and county, the school  
21 district, the community college district, or the county office of  
22 education has not contracted with the board prior to the operative  
23 date of the ordinance or resolution, but shall contract, the operative  
24 date shall be delayed until the first day of the first calendar quarter  
25 following the execution of the contract.

26 7289.43. For a county or city and county, a school district, a  
27 community college district, or a county office of education that  
28 elects to contract with the State Board of Equalization to administer  
29 a tax imposed by the county or city and county, the school district,  
30 the community college district, or the county office of education,  
31 as authorized by this chapter, the following shall apply:

32 (a) The contract shall require the county or city and county, the  
33 school district, the community college district, or the county office  
34 of education to do both of the following:

35 (1) Reimburse the State Board of Equalization for, and hold the  
36 board harmless from, any and all costs, losses, or refunds.

37 (2) In the event that a legal action is commenced challenging  
38 the validity of the tax in its entirety, as opposed to the application  
39 of the tax to an individual taxpayer, place the tax proceeds into  
40 an interest-bearing escrow account until the legality of the tax is

1 *resolved by a final and nonappealable decision rendered by a*  
2 *court of competent jurisdiction. This paragraph shall be*  
3 *enforceable by any interested party in a proceeding for a writ of*  
4 *mandate.*

5 *(b) The county or city and county, the school district, the*  
6 *community college district, or the county office of education shall*  
7 *reimburse the State Board of Equalization for any costs the board*  
8 *incurs in preparing to administer and operate the tax. The county*  
9 *or city and county, the school district, the community college*  
10 *district, or the county office of education shall reimburse the board*  
11 *as the costs are incurred and billed by the board, on a monthly*  
12 *basis. These reimbursable costs shall include costs incurred for*  
13 *the following:*

14 *(1) Developing procedures.*

15 *(2) Programming for data processing.*

16 *(3) Developing and adopting appropriate regulations.*

17 *(4) Designing and printing forms.*

18 *(5) Developing instructions for the State Board of Equalization*  
19 *staff and for taxpayers.*

20 *(6) Any other necessary preparatory costs, including the State*  
21 *Board of Equalization's direct and indirect costs as specified by*  
22 *Section 11256 of the Government Code.*

23 *(c) Any dispute as to the amount of preparatory costs incurred*  
24 *by the State Board of Equalization shall be resolved by the Director*  
25 *of Finance, whose decision shall be final. The maximum amount*  
26 *of all preparatory costs to be paid by the county or city and county,*  
27 *the school district, the community college district, or the county*  
28 *office of education to the board shall not exceed one hundred*  
29 *seventy-five thousand dollars (\$175,000).*

30 *(d) In addition to the amounts paid to the State Board of*  
31 *Equalization for the preparatory costs described in subdivision*  
32 *(b), the county or city and county, the school district, the*  
33 *community college district, or the county office of education shall*  
34 *reimburse the board for the cost of the board's services in*  
35 *administering the tax. The amount of this cost shall be determined*  
36 *by the board with the concurrence of the Department of Finance.*

37 *(e) All revenues collected from taxes imposed pursuant to the*  
38 *authorization of this chapter in counties or a city and county,*  
39 *school districts, community college districts, or county offices of*  
40 *education that have contracted with the State Board of Equalization*

1 to administer the tax shall be remitted to the board and allocated  
2 by the board as follows:

3 (1) First, for reimbursement to the State Board of Equalization  
4 for the reasonable costs, as specified in subdivisions (b) and (d),  
5 of administering and enforcing the tax ordinance on behalf of the  
6 county or city and county, the school district, the community  
7 college district, or the county office of education pursuant to the  
8 contract between the board and the county or city and county, the  
9 school district, the community college district, or the county office  
10 of education.

11 (2) Second, for transmission to each county or city and county,  
12 school district, community college district, or county office of  
13 education that has contracted with the State Board of Equalization  
14 pursuant to subdivision (b) of Section 7289.42, in proportion to  
15 the amount of revenues derived from each county's or city and  
16 county's, school district's, community college district's, or county  
17 office of education's respective tax.

18 (f) The State Board of Equalization shall transmit to a county  
19 or city and county, a school district, a community college district,  
20 or a county office of education all revenues derived from the taxes  
21 imposed pursuant to this chapter and collected by the board  
22 pursuant to a contract with the county or city and county, the  
23 school district, the community college district, or the county office  
24 of education periodically as promptly as feasible. The transmittals  
25 shall be made at least twice in each calendar quarter.

26 7289.44. (a) For a producer within a jurisdiction of a county  
27 or city and county, a school district, a community college district,  
28 or a county office of education that elects to contract with the State  
29 Board of Equalization to administer the tax pursuant to subdivision  
30 (b) of Section 7289.42, the following apply:

31 (1) (A) The return and payment of any tax imposed pursuant  
32 to the authorization of this chapter is due and payable to the board  
33 quarterly on or before the last day of the month next succeeding  
34 each calendar quarter.

35 (B) Each producer shall prepare and file with the State Board  
36 of Equalization a return in the form prescribed by the board  
37 containing information as the board deems necessary or  
38 appropriate for the proper administration of the tax. The return  
39 shall be filed on or before the last day of the calendar month  
40 following the calendar quarter to which it relates, together with

1 a remittance payable to the board for the amount of tax due for  
2 that period.

3 (2) The State Board of Equalization may prescribe those forms  
4 and reporting requirements as necessary to implement the tax,  
5 including, but not limited to, information regarding the location  
6 of the well, by the county or city and county, the school district,  
7 the community college district, or jurisdiction of the county office  
8 of education, the gross amount of oil produced, the quantity sold  
9 and the selling price, the prevailing market price of oil, and the  
10 amount of tax due.

11 (3) The State Board of Equalization shall administer and collect  
12 the tax, to the extent practicable, pursuant to the Fee Collection  
13 Procedures Law (Part 30 (commencing with Section 55001) of  
14 Division 2). For purposes of this part, the references in the Fee  
15 Collection Procedures Law to “fee” shall include the tax imposed  
16 by this part, and to “feepayer” shall include a producer required  
17 to pay the tax imposed by this part.

18 (4) The State Board of Equalization may prescribe, adopt, and  
19 enforce regulations relating to the administration and enforcement  
20 of this chapter.

21 (b) If the producer is within the jurisdiction of a county or city  
22 and county, a school district, a community college district, or a  
23 county office of education that has elected not to contract with the  
24 State Board of Equalization to administer the tax, the  
25 determinations, collection of tax, overpayments, and refunds, and  
26 administration of the tax imposed under the authorization of this  
27 chapter shall be prescribed in the ordinance or resolution adopted  
28 by the county or city and county, the school district, the community  
29 college district, or the county office of education.

30 7289.45. The Administrative Procedure Act (Chapter 3.5  
31 (commencing with Section 11340) of Part 1 of Division 3 of Title  
32 2 of the Government Code) shall not apply to any standard,  
33 criterion, procedure, determination, rule, notice, or guideline  
34 established or issued by the State Board of Equalization in the  
35 administration of this chapter.

36 SEC. 7. Chapter 3.58 (commencing with Section 7289.50) is  
37 added to Part 1.7 of Division 2 of the Revenue and Taxation Code,  
38 to read:

CHAPTER 3.58. LOCAL SWEETENED BEVERAGE TAX

7289.50. (a) Subject to the requirements of this chapter, the governing board of a county or city and county, a school district, a community college district, and a county office of education may impose a tax upon a distributor for the privilege of distributing bottled sweetened beverages and concentrate in the county or city and county, the school district, the community college district, or the jurisdiction of the county office of education, as authorized pursuant to Chapter 3.53 (commencing with Section 7289). The board of supervisors may impose this tax within an incorporated city within the county or city and county.

(b) Any tax imposed shall be calculated as follows:

(1) The tax on bottled sweetened beverages distributed in the county or city and county, the school district, the community college district, or the jurisdiction of the county office of education, shall be imposed per fluid ounce, not to exceed one cent (\$0.01) per fluid ounce.

(2) The tax on concentrate distributed in the county or city and county, the school district, the community college district, or the jurisdiction of the county office of education, either as concentrate or as a sweetened beverage derived from that concentrate, shall be imposed per fluid ounce of sweetened beverage produced from that concentrate, not to exceed one cent (\$0.01) per fluid ounce. For purposes of calculating the tax for concentrate, the volume of sweetened beverage to be produced from concentrate shall be the largest volume resulting from use of the concentrate according to any manufacturer's instructions.

(c) There shall be exempted from the imposition of a tax imposed the distribution of bottled sweetened beverages or concentrate distributed by a distributor to:

(1) To a person when, pursuant to the contract of sale, the bottled sweetened beverages or concentrates are shipped to a point outside of this state by the distributor by means of any of the following:

(A) Facilities operated by the distributor.

(B) Delivery by the distributor to a carrier, customs broker, or forwarding agent, whether hired by the purchaser or not, for shipment to the out-of-county point.

(2) To a person where the county or city and county, the school district, the community college district, or the county office of education is prohibited from taxing that sale, use, or consumption under the Constitution or laws of the United States or under the Constitution of this state.

7289.51. For purposes of any tax imposed, all of the following definitions shall apply:

(a) “Beverage container” means any closed or sealed container regardless of size or shape, including, without limitation, those made of glass, metal, paper, plastic, or any other material or combination of materials.

(b) “Bottled sweetened beverage” means a sweetened beverage contained in a beverage container.

(c) “Beverage dispensing machine” means a device which mixes concentrate with any one or more other ingredients and dispenses the resulting mixture into an open container as a ready-to-drink beverage.

(d) “Caloric sweetener” means any caloric substance suitable for human consumption that humans perceive as sweet and includes, without limitation, sucrose, fructose, including high fructose corn sweetener, glucose, other sugars, and fruit juice concentrates. “Caloric” means a substance that adds calories to the diet of a person who consumes that substance.

(e) “Concentrate” means a syrup, powder, or base product that is used for mixing, compounding, or making sweetened beverages in a beverage dispensing machine. For purposes of this part, “concentrate” does not include any of the following:

(1) Any product that is solely used in preparing coffee or tea.

(2) Any product for consumption by infants and which is commonly referred to as “infant formula.”

(3) Any product for use for weight reduction.

(4) Any product containing milk or milk products or plant proteins sources.

(5) Any frozen concentrate or freeze-dried concentrate to which only water is added to produce a sweetened beverage containing more than 10 percent natural fruit juice or more than 10 percent natural fruit juice.

(6) Any product that is sold and is intended to be used for the purpose of an individual consumer mixing a sweetened beverage.

(7) Medical food.



1 (8) Any product to which no caloric sweeteners have been  
2 added.

3 (f) “Consumer” means a person who purchases a bottled  
4 sweetened beverage or concentrate for a purpose other than resale  
5 in the ordinary course of business.

6 (g) “Distribution” includes:

7 (1) The sale of bottled sweetened beverages or concentrate to  
8 a retailer.

9 (2) The receipt of untaxed bottled sweetened beverages or  
10 concentrate in this state from an unregistered out-of-state  
11 distributor by a retailer.

12 (h) “Distributor” means any person, or the distributor’s agent,  
13 who makes a distribution of bottled sweetened beverages,  
14 sweetened beverages, or concentrate in the state, whether or not  
15 that person also sells these products to consumers.

16 (i) “Medical food” means medical food as defined in Section  
17 109971 of the Health and Safety Code.

18 (j) “Milk” means natural liquid milk, regardless of animal  
19 source or butterfat content, natural milk concentrate, whether or  
20 not reconstituted, regardless of animal source, plant source, or  
21 butterfat content, or dehydrated natural milk, whether or not  
22 reconstituted and regardless of animal source or butterfat content.

23 (k) “Natural fruit juice” means the original liquid resulting  
24 from the pressing of fruit, the liquid resulting from the  
25 reconstitution of natural fruit juice concentrate, or the liquid  
26 resulting from the restoration of water to dehydrated natural fruit  
27 juice.

28 (l) “Natural vegetable juice” means the original liquid resulting  
29 from the pressing of vegetables, the liquid resulting from the  
30 reconstitution of natural vegetable juice concentrate, or the liquid  
31 resulting from the restoration of water to dehydrated natural  
32 vegetable juice.

33 (m) “Nonalcoholic beverage” means any beverage not subject  
34 to tax under Part 14 (commencing with Section 32001).

35 (n) “Person” means an individual, trust, firm, joint stock  
36 company, business concern, business trust, receiver, trustee,  
37 syndicate, social club, fraternal organization, estate, corporation,  
38 including, but not limited to, a government corporation,  
39 partnership, limited liability company, and association or any  
40 other group or combination acting as a unit. “Person” also

1 includes any city, county, city and county, district, commission,  
2 the state, or any department, agency, or political subdivision  
3 thereof, any interstate body, and the United States and its agencies  
4 and instrumentalities to the extent permitted by law.

5 (o) “Powder” or “base product” means a solid mixture of  
6 ingredients used in making, mixing, or compounding sweetened  
7 beverages by mixing the powder or base product with any one or  
8 more other ingredients, including, without limitation, water, ice,  
9 syrup, simple syrup, fruits, vegetables, fruit juice, vegetable juice,  
10 or carbonation or other gas.

11 (p) “Retail sale” means the sale of bottled sweetened beverages  
12 or sweetened beverages to a consumer.

13 (q) “Retailer” means any person who sells in this state bottled  
14 sweetened beverages or sweetened beverages to a consumer,  
15 whether or not that person is also a distributor as defined in this  
16 section.

17 (r) “Sale” means the transfer of title or possession for  
18 consideration in any manner or by any means whatever.

19 (s) “Simple syrup” means a mixture of sugar and water.

20 (t) (1) “Sweetened beverage” means any sweetened  
21 nonalcoholic beverage sold for human consumption that contains  
22 any added caloric sweeteners, including, but not limited to, the  
23 following: soda water, ginger ale, root beer, all beverages  
24 commonly referred to as cola, lime, lemon, lemon-lime, and other  
25 flavored beverages, including any fruit or vegetable beverage  
26 containing 10 percent or less natural fruit juice or natural  
27 vegetable juice, and all other drinks and beverages commonly  
28 referred to as “soda,” “soda pop,” and “soft drinks.”

29 (2) “Sweetened beverage” does not include any of the following:

30 (A) Any product sold in liquid form for consumption by infants,  
31 which is commonly referred to as “infant formula.”

32 (B) Any product sold in liquid form for use for weight reduction.

33 (C) Water, to which no caloric sweeteners have been added.

34 (D) Any product containing milk or milk products or plant  
35 protein sources.

36 (E) Medical food.

37 (F) Coffee or tea.

38 (u) “Syrup” means the liquid mixture of ingredients used in  
39 making, mixing, or compounding sweetened beverages using one  
40 or more other ingredients including, without limitation, water, ice,

1 a powder, simple syrup, fruits, vegetables, fruit juice, vegetable  
2 juice, or carbonation or other gas.

3 7289.52. Prior to the operative date of any ordinance or  
4 resolution imposing a tax pursuant to this chapter, the governing  
5 board of the county or city and county, the school district, the  
6 community college district, or the county office of education shall  
7 do either of the following:

8 (a) Notify the State Board of Equalization in writing that the  
9 county or city and county, the school district, the community  
10 college district, or the county office of education will be responsible  
11 for administering the tax imposed pursuant to an ordinance or a  
12 resolution authorized by this chapter on its own behalf, and that  
13 the ordinance or resolution does not impose any duties or  
14 responsibilities for administering the tax upon the State Board of  
15 Equalization.

16 (b) Contract with the State Board of Equalization to perform  
17 all functions incident to the administration and operation of the  
18 ordinance or resolution. If the county or city and county, the school  
19 district, the community college district, or the county office of  
20 education has not contracted with the board prior to the operative  
21 date of the ordinance or resolution, but shall contract, the operative  
22 date shall be delayed until the first day of the first calendar quarter  
23 following the execution of the contract.

24 7289.53. For a county or city and county, a school district, a  
25 community college district, or a county office of education that  
26 elects to contract with the State Board of Equalization to administer  
27 a tax imposed by the county or city and county, the school district,  
28 the community college district, or the county office of education,  
29 as authorized by this chapter, the following shall apply:

30 (a) The contract shall require the county or city and county, the  
31 school district, the community college district, or the county office  
32 of education to do both of the following:

33 (1) Reimburse the State Board of Equalization for, and hold the  
34 board harmless from, any and all costs, losses, or refunds.

35 (2) In the event that a legal action is commenced challenging  
36 the validity of the tax in its entirety, as opposed to the application  
37 of the tax to an individual taxpayer, place the tax proceeds into  
38 an interest-bearing escrow account until the legality of the tax is  
39 resolved by a final and nonappealable decision rendered by a  
40 court of competent jurisdiction. This paragraph shall be

1 enforceable by any interested party in a proceeding for a writ of  
2 mandate.

3 (b) The county or city and county, the school district, the  
4 community college district, or the county office of education shall  
5 reimburse the State Board of Equalization for any costs the board  
6 incurs in preparing to administer and operate the tax. The county  
7 or city and county, the school district, the community college  
8 district, or the county office of education shall reimburse the board  
9 as the costs are incurred and billed by the board, on a monthly  
10 basis. These reimbursable costs shall include costs incurred for  
11 the following:

12 (1) Developing procedures.

13 (2) Programming for data processing.

14 (3) Developing and adopting appropriate regulations.

15 (4) Designing and printing forms.

16 (5) Developing instructions for the State Board of Equalization  
17 staff and for taxpayers.

18 (6) Any other necessary preparatory costs, including the State  
19 Board of Equalization's direct and indirect costs as specified by  
20 Section 11256 of the Government Code.

21 (c) Any dispute as to the amount of preparatory costs incurred  
22 by the State Board of Equalization shall be resolved by the Director  
23 of Finance, whose decision shall be final. The maximum amount  
24 of all preparatory costs to be paid by the county or city and county,  
25 the school district, the community college district, or the county  
26 office of education to the board shall not exceed one hundred  
27 seventy-five thousand dollars (\$175,000).

28 (d) In addition to the amounts paid to the State Board of  
29 Equalization for the preparatory costs described in subdivision  
30 (b), the county or city and county, the school district, the  
31 community college district, or the county office of education shall  
32 reimburse the board for the cost of the board's services in  
33 administering the tax. The amount of this cost shall be determined  
34 by the board with the concurrence of the Department of Finance.

35 (e) All revenues collected from taxes imposed pursuant to the  
36 authorization of this chapter in counties or a city and county,  
37 school districts, community college districts, or county offices of  
38 education that have contracted with the State Board of Equalization  
39 to administer the tax shall be remitted to the board and allocated  
40 by the board as follows:

1     *(1) First, for reimbursement to the State Board of Equalization*  
2 *for the reasonable costs, as specified in subdivisions (b) and (d),*  
3 *of administering and enforcing the tax ordinance on behalf of the*  
4 *county or city and county, the school district, the community*  
5 *college district, or the county office of education pursuant to the*  
6 *contract between the board and the county or city and county, the*  
7 *school district, the community college district, or the county office*  
8 *of education.*

9     *(2) Second, for transmission to each county or city and county,*  
10 *school district, community college district, or county office of*  
11 *education that has contracted with the State Board of Equalization*  
12 *pursuant to subdivision (b) of Section 7289.52, in proportion to*  
13 *the amount of revenues derived from each county's or city and*  
14 *county's, school district's, community college district's, or county*  
15 *office of education's respective tax.*

16     *(f) The State Board of Equalization shall transmit to a county*  
17 *or city and county, a school district, a community college district,*  
18 *or a county office of education all revenues derived from the taxes*  
19 *imposed pursuant to this chapter and collected by the board*  
20 *pursuant to a contract with the county or city and county, the*  
21 *school district, the community college district, or the county office*  
22 *of education periodically as promptly as feasible. The transmittals*  
23 *shall be made at least twice in each calendar quarter.*

24     7289.54. (a) *For a distributor that is subject to the jurisdiction*  
25 *of a county or city and county, a school district, a community*  
26 *college district, or a county office of education that elects to*  
27 *contract with the State Board of Equalization to administer the*  
28 *tax pursuant to subdivision (b) of Section 7289.52, the following*  
29 *apply:*

30     *(1) Every distributor shall register with the State Board of*  
31 *Equalization. Every application for registration shall be made*  
32 *upon a form prescribed by the board and shall set forth the name*  
33 *under which the applicant transacts or intends to transact business,*  
34 *the location of his or her place or places of business, and any other*  
35 *information as the board may require. An application for an*  
36 *account shall be authenticated in a form or pursuant to methods*  
37 *as may be prescribed by the board.*

38     *(2) (A) There is exempt from any tax the distribution of bottled*  
39 *sweetened beverages or concentrate distributed by a distributor*

1 to a distributor registered with the board under paragraph (1)  
2 when supported by a properly completed exemption certificate.

3 (B) The exemption certificate to be provided by a distributor to  
4 another distributor as described in subparagraph (A) shall consist  
5 of a statement that is signed under penalty of perjury by a person  
6 with authority to bind the distributor. The certificate shall be dated  
7 and include the distributor's name and account number. A new  
8 certificate shall be given if any information in the current  
9 certificate changes. The certificate may be included as part of any  
10 business records normally used to document a sale or distribution.

11 (C) A distributor who has paid a tax, either directly to the State  
12 Board of Equalization or to another distributor registered pursuant  
13 to paragraph (1), and makes a subsequent distribution of bottled  
14 sweetened beverages or concentrate may claim a credit on its  
15 return for the period in which the subsequent sale or distribution  
16 occurs.

17 (3) (A) The return and payment of any tax imposed pursuant  
18 to the authorization of this chapter is due and payable to the State  
19 Board of Equalization quarterly on or before the last day of the  
20 month next succeeding each calendar quarter.

21 (B) Each distributor shall prepare and file with the State Board  
22 of Equalization a return in the form prescribed by the board  
23 containing information as the board deems necessary or  
24 appropriate for the proper administration of the tax. The return  
25 shall be filed on or before the last day of the calendar month  
26 following the calendar quarter to which it relates, together with  
27 a remittance payable to the board for the amount of tax due for  
28 that period.

29 (4) The State Board of Equalization may prescribe those forms  
30 and reporting requirements as necessary to implement the tax,  
31 including, but not limited to, information regarding the total  
32 amount of bottled sweetened beverages and concentrate sold and  
33 the amount of tax due.

34 (5) The State Board of Equalization shall administer and collect  
35 the tax, to the extent practicable, pursuant to the Fee Collection  
36 Procedures Law (Part 30 (commencing with Section 55001) of  
37 Division 2). For purposes of this part, the references in the Fee  
38 Collection Procedures Law to "fee" shall include the tax imposed  
39 by this part, and to "feepayer" shall include a producer required  
40 to pay the tax imposed by this part.

1 (6) *The State Board of Equalization may prescribe, adopt, and*  
2 *enforce regulations relating to the administration and enforcement*  
3 *of this chapter.*

4 (7) *Returns shall be authenticated in a form or pursuant to*  
5 *methods as may be prescribed by the board.*

6 (b) *If the distributor is within the jurisdiction of a county or city*  
7 *and county, a school district, a community college district, or a*  
8 *county office of education that has elected not to contract with the*  
9 *State Board of Equalization to administer the tax, the*  
10 *determinations, collection of tax, overpayments, refunds, and*  
11 *administration of the tax imposed under the authorization of this*  
12 *chapter shall be prescribed in the ordinance or resolution adopted*  
13 *by the county or city and county, the school district, the community*  
14 *college district, or the county office of education.*

15 7289.55. *The Administrative Procedure Act (Chapter 3.5*  
16 *(commencing with Section 11340) of Part 1 of Division 3 of Title*  
17 *2 of the Government Code) shall not apply to any standard,*  
18 *criterion, procedure, determination, rule, notice, or guideline*  
19 *established or issued by the State Board of Equalization in the*  
20 *administration of this chapter.*

21 SEC. 8. *Section 17041.5 of the Revenue and Taxation Code is*  
22 *amended to read:*

23 17041.5. *Notwithstanding any statute, ordinance, regulation,*  
24 *rule or decision to the contrary, ~~no a city, county, city and county,~~*  
25 *governmental subdivision, district, public and quasi-public*  
26 *corporation, municipal corporation, whether incorporated or not*  
27 *or whether chartered or not, shall not levy or collect or cause to*  
28 *be levied or collected any tax upon the income, or any part thereof,*  
29 *of any person, resident or nonresident. For purposes of this section,*  
30 *“governmental subdivision, district, public and quasi-public*  
31 *corporation, municipal corporation, whether incorporated or not*  
32 *or whether chartered or not,” shall not include a school district,*  
33 *a community college district, or a county office of education.*

34 This section shall not be construed so as to prohibit the levy or  
35 collection of any otherwise authorized license tax upon a business  
36 measured by or according to gross receipts.

37 SEC. 9. *Section 17041.6 is added to the Revenue and Taxation*  
38 *Code, to read:*

39 17041.6. (a) *A local ordinance or resolution, authorized*  
40 *pursuant to Chapter 3.53 (commencing with Section 7289) of Part*

1 1.7, imposing a local personal income tax shall become operative  
2 for taxable years beginning on or after January 1 of the year in  
3 which the ordinance or resolution is approved by the voters of the  
4 county or city and county, the school district, the community  
5 college district, or the county office of education.

6 (b) (1) A local personal income tax may be calculated as a  
7 percentage of taxable income shown on the state personal income  
8 tax return filed for a taxable year by a resident of the county or  
9 city and county, the school district, the community college district,  
10 or the jurisdiction of the county office of education in which the  
11 local personal income tax is imposed.

12 (2) A local personal income tax shall not exceed 1 percent of  
13 taxable income for a taxable year.

14 (3) A local personal income tax may be imposed on one or more  
15 of the income tax brackets prescribed in Section 17041.

16 (c) For each taxable year for which a local personal income  
17 tax is operative under subdivision (a), in addition to any other  
18 taxes imposed by this part, an additional tax on the taxable income  
19 of a county or city and county, a school district, a community  
20 college district, and a county office of education resident shall be  
21 imposed at the rate approved by the voters of that county or city  
22 and county, that school district, that community college district,  
23 or that county office of education.

24 (d) For purposes of applying Part 10.2 (commencing with  
25 Section 18401), including, but not limited to, the requirement for  
26 the payment of estimated tax and wage withholding, the tax  
27 imposed under this section shall be treated as if it were imposed  
28 under Section 17041.

29 (e) Any credit authorized under this part shall not be applied  
30 to reduce taxes imposed under this section.

31 (f) (1) Prior to the operative date of any ordinance or resolution  
32 imposing a local personal income tax, the county or city and  
33 county, the school district, the community college district, or the  
34 county office of education shall contract with the Franchise Tax  
35 Board to perform all functions incident to the administration of  
36 the local personal income tax.

37 (2) The contract shall require the county or city and county, the  
38 school district, the community college district, or the county office  
39 of education to reimburse the Franchise Tax Board for all refunds,



1 losses, and costs incurred in the administration and operation of  
2 the local personal income tax.

3 (g) Any information, information sources, or enforcement  
4 remedies and capabilities available to the county or city and  
5 county, the school district, the community college district, or the  
6 county office of education shall be made available to the Franchise  
7 Tax Board to be used in conjunction with, or independent of, the  
8 information, information sources, or remedies and capabilities  
9 available to the Franchise Tax Board for purposes of administering  
10 this section.

11 (h) The Franchise Tax Board may adopt regulations necessary  
12 to administer this section.

13 (i) (1) Amounts collected pursuant to this section shall be  
14 transmitted to the Treasurer and deposited in the State Treasury  
15 to the credit of the Local Personal Income Tax Account in the  
16 General Fund, which is hereby created.

17 (2) Notwithstanding Section 13340 of the Government Code,  
18 the moneys in the Local Personal Income Tax Account are hereby  
19 continuously appropriated, without regard to fiscal year, to the  
20 Controller for allocation to each county and city and county, school  
21 district, community college district, and county office of education  
22 in which the local personal income tax is imposed.

23 (j) Any payments and withholding credits shown on the return  
24 shall be applied in the following order:

25 (1) Taxes imposed under Part 10 (commencing with Section  
26 17001) or Part 11 (commencing with Section 23001), including  
27 penalties, interest, and fees, if any, imposed under Part 10.2  
28 (commencing with Section 18401).

29 (2) Qualified use tax reported on the return in accordance with  
30 Section 6452.1.

31 (3) Local personal income taxes imposed under Section 17041.6.  
32 If a taxpayer owes a local personal income tax to more than one  
33 county or city and county, school district, community college  
34 district, or county office of education, and the payments and  
35 withholding credits received are insufficient to satisfy the total  
36 amount of all local personal income taxes due by the taxpayer for  
37 the taxable year, the Franchise Tax Board shall allocate the  
38 payments and withholding credits on a pro rata basis to the county  
39 or city and county, school district, community college district, or  
40 county office of education.

1     (k) For a county office of education, any revenues derived from  
2     the imposition of a local personal income tax as authorized by this  
3     section shall be apportioned to the school districts located within  
4     the jurisdiction of the county office of education on the basis of  
5     average daily attendance.

6     (l) Notwithstanding Section 19551, the tax officials of a county  
7     or city and county, a school district, a community college district,  
8     or a county office of education shall not be required to do either  
9     of the following:

10    (1) Request information from the Franchise Tax Board by  
11    affidavit.

12    (2) Provide the affected person with a copy of the affidavit.

13    (m) The Administrative Procedure Act (Chapter 3.5  
14    (commencing with Section 11340) of Part 1 of Division 3 of Title  
15    2 of the Government Code) shall not apply to any standard,  
16    criterion, procedure, determination, rule, notice, or guideline  
17    established or issued by the Franchise Tax Board pursuant to this  
18    section.

19    SEC. 10. Section 30111 of the Revenue and Taxation Code is  
20    amended to read:

21    30111. The taxes imposed by this part are in lieu of all other  
22    state, county, municipal, or district taxes on the privilege of  
23    distributing cigarettes or tobacco products.

24    This section does not prohibit the application of Part 1  
25    (commencing with Section 6001), Part 1.5 (commencing with  
26    Section 7200), Part 1.6 (commencing with Section 7251), or Article  
27    2 (commencing with Section 37021) of Part 17 to the sale, storage,  
28    use or other consumption of cigarettes or tobacco products, *or a*  
29    *local ordinance or resolution, authorized pursuant to Chapter*  
30    *3.53 (commencing with Section 7289), imposing a local alcoholic*  
31    *beverage tax in accordance with Chapter 3.55 (commencing with*  
32    *Section 7289.20).*

33    SEC. 11. Section 32010 of the Revenue and Taxation Code is  
34    amended to read:

35    32010. The taxes imposed by this part are in lieu of all county,  
36    municipal, or district taxes on the sale of beer, wine, or distilled  
37    spirits.

38    This section does not prohibit the application of Part 1  
39    (commencing with Section 6001), Part 1.5 (commencing with  
40    Section 7200) or Part 1.6 (commencing with Section 7251) to the

1 sale, storage, use or other consumption of beer, wine, or distilled  
2 spirits, *or a local ordinance or resolution, authorized pursuant to*  
3 *Chapter 3.53 (commencing with Section 7289), imposing a local*  
4 *cigarette and tobacco products tax in accordance with Chapter*  
5 *3.56 (commencing with Section 7289.31).*

6 *SEC. 12. This act addresses the fiscal emergency declared and*  
7 *reaffirmed by the Governor by proclamation on January 20, 2011,*  
8 *pursuant to subdivision (f) of Section 10 of Article IV of the*  
9 *California Constitution.*

10 ~~SECTION 1. It is the intent of the Legislature to enact statutory~~  
11 ~~changes relating to the Budget Act of 2010.~~

12 ~~SEC. 2. This act addresses the fiscal emergency declared by~~  
13 ~~the Governor by proclamation on December 6, 2010, pursuant to~~  
14 ~~subdivision (f) of Section 10 of Article IV of the California~~  
15 ~~Constitution.~~

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